

107TH CONGRESS
1ST SESSION

S. 1028

To direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the initial stage of the Oahe Unit, James Division, South Dakota, to the Commission of Schools and Public Lands and the Department of Game, Fish, and Parks of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2001

Mr. DASCHLE (for himself and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the initial stage of the Oahe Unit, James Division, South Dakota, to the Commission of Schools and Public Lands and the Department of Game, Fish, and Parks of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Blunt Reservoir and
5 Pierre Canal Land Conveyance Act of 2001”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) under the Act of December 22, 1944 (com-
9 monly known as the “Flood Control Act of 1944”)
10 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et
11 seq.), Congress approved the Pick-Sloan Missouri
12 River Basin Program—

13 (A) to promote the general economic devel-
14 opment of the United States;

15 (B) to provide for irrigation above Sioux
16 City, Iowa;

17 (C) to provide for municipal and industrial
18 water supply, fish and wildlife, and recreation;

19 (D) to protect urban and rural areas from
20 devastating floods of the Missouri River; and

21 (E) for other purposes;

22 (2) the purpose of the Oahe Unit, James Divi-
23 sion, of the Oahe Irrigation Project was to meet the
24 requirements of that Act by providing irrigation
25 above Sioux City, Iowa;

1 (3) the principal features of the initial stage of
2 the Oahe Unit, James Division, of the Oahe Irriga-
3 tion Project included—

4 (A) a system of main canals, including the
5 Pierre Canal, running east from the Oahe Res-
6 ervoir; and

7 (B) the establishment of regulating res-
8 ervoirs, including the Blunt Dam and Res-
9 ervoir, located approximately 35 miles east of
10 Pierre, South Dakota;

11 (4) land to establish the Pierre Canal and
12 Blunt Reservoir was purchased between 1972 and
13 1977, when construction on the initial stage of the
14 Oahe Unit, James Division, was halted;

15 (5) since 1978, the Commissioner of Reclama-
16 tion has administered the land—

17 (A) on a preferential lease basis to original
18 landowners or their descendants; and

19 (B) on a nonpreferential lease basis to
20 other persons;

21 (6) the 2 largest reservoirs created by the Pick-
22 Sloan Missouri River Basin Program, Lake Oahe
23 and Lake Sharpe, caused the loss of approximately
24 221,000 acres of fertile, wooded bottomland in
25 South Dakota that constituted some of the most

1 productive, unique, and irreplaceable wildlife habitat
2 in the State;

3 (7) the State has developed a plan to meet the
4 Federal obligation under the Fish and Wildlife Co-
5 ordination Act (16 U.S.C. 661 et seq.) to mitigate
6 the loss of wildlife habitat, the implementation of
7 which is authorized by section 602 of title VI of
8 Public Law 105–277 (112 Stat. 2681–660); and

9 (8) it is in the interests of the United States
10 and the State to—

11 (A) provide original landowners or their
12 descendants with an opportunity to purchase
13 back their land; and

14 (B) transfer the remaining land to the
15 State to allow implementation of its habitat
16 mitigation plan.

17 **SEC. 3. BLUNT RESERVOIR AND PIERRE CANAL.**

18 (a) DEFINITIONS.—In this section:

19 (1) BLUNT RESERVOIR FEATURE.—The term
20 “Blunt Reservoir feature” means the Blunt Res-
21 ervoir feature of the Oahe Unit, James Division, au-
22 thorized by the Act of August 3, 1968 (82 Stat.
23 624), as part of the Pick-Sloan Missouri River Basin
24 Program.

1 (2) COMMISSION.—The term “Commission”
2 means the Commission of Schools and Public Lands
3 of the State.

4 (3) NONPREFERENTIAL LEASE PARCEL.—The
5 term “nonpreferential lease parcel” means a parcel
6 of land that—

7 (A) was purchased by the Secretary for use
8 in connection with the Blunt Reservoir feature
9 or the Pierre Canal feature; and

10 (B) was considered to be a nonpreferential
11 lease parcel by the Secretary as of January 1,
12 2001, and is reflected as such on the roster of
13 leases of the Bureau of Reclamation for 2001.

14 (4) PIERRE CANAL FEATURE.—The term
15 “Pierre Canal feature” means the Pierre Canal fea-
16 ture of the Oahe Unit, James Division, authorized
17 by the Act of August 3, 1968 (82 Stat. 624), as
18 part of the Pick-Sloan Missouri River Basin Pro-
19 gram.

20 (5) PREFERENTIAL LEASEHOLDER.—The term
21 “preferential leaseholder” means a person or de-
22 scendant of a person that held a lease on a pref-
23 erential lease parcel as of January 1, 2001, and is
24 reflected as such on the roster of leases of the Bu-
25 reau of Reclamation for 2001.

1 (6) PREFERENTIAL LEASE PARCEL.—The term
 2 “preferential lease parcel” means a parcel of land
 3 that—

4 (A) was purchased by the Secretary for use
 5 in connection with the Blunt Reservoir feature
 6 or the Pierre Canal feature; and

7 (B) was considered to be a preferential
 8 lease parcel by the Secretary as of January 1,
 9 2001, and is reflected as such on the roster of
 10 leases of the Bureau of Reclamation for 2001.

11 (7) SECRETARY.—The term “Secretary” means
 12 the Secretary of the Interior, acting through the
 13 Commissioner of Reclamation.

14 (8) STATE.—

15 (A) IN GENERAL.—The term “State”
 16 means the State of South Dakota.

17 (B) INCLUSION.—The term “State” in-
 18 cludes a successor in interest of the State.

19 (9) UNLEASED PARCEL.—The term “unleased
 20 parcel” means a parcel of land that—

21 (A) was purchased by the Secretary for use
 22 in connection with the Blunt Reservoir feature
 23 or the Pierre Canal feature; and

24 (B) is not under lease as of the date of en-
 25 actment of this Act.

1 (b) DEAUTHORIZATION.—The Blunt Reservoir fea-
 2 ture is deauthorized.

3 (c) CONVEYANCE.—Not later than 1 year after the
 4 date of enactment of this Act, the Secretary shall convey
 5 all of the preferential lease parcels to the Commission,
 6 without consideration, on the condition that the Commis-
 7 sion honor the purchase option provided to preferential
 8 leaseholders under subsection (e).

9 (d) ACCEPTANCE OF LAND AND OBLIGATIONS.—

10 (1) IN GENERAL.—As a condition of each con-
 11 veyance under subsections (c) and (f), respectively,
 12 the State shall agree to accept—

13 (A) in “as is” condition, the Blunt Res-
 14 ervoir Feature and the Pierre Canal Feature;
 15 and

16 (B) any liability accruing after the date of
 17 conveyance as a result of the ownership, oper-
 18 ation, or maintenance of the features referred
 19 to in subparagraph (A), including liability asso-
 20 ciated with certain outstanding obligations asso-
 21 ciated with expired easements, or any other
 22 right granted in, on, over, or across either fea-
 23 ture.

24 (2) RESPONSIBILITIES OF THE STATE.—An
 25 outstanding obligation described in paragraph (1)(B)

1 shall inure to the benefit of, and be binding upon,
2 the State.

3 (3) OIL, GAS, MINERAL, AND OTHER OUT-
4 STANDING RIGHTS.—A conveyance under subsection
5 (c) or (f) shall be made subject to—

6 (A) oil, gas, and other mineral rights re-
7 served of record, as of the date of enactment of
8 this Act, by or in favor of a third party; and

9 (B) any permit, license, lease, right-of-use,
10 or right-of-way of record in, on, over, or across
11 a feature referred to in paragraph (1)(A) that
12 is outstanding as to a third party as of the date
13 of enactment of this Act.

14 (e) PURCHASE OPTION.—

15 (1) IN GENERAL.—A preferential leaseholder
16 shall have an option to purchase from the Commis-
17 sion the preferential lease parcel that is the subject
18 of the lease.

19 (2) TERMS.—

20 (A) IN GENERAL.—Except as provided in
21 subparagraph (B), a preferential leaseholder
22 may elect to purchase a parcel on 1 of the fol-
23 lowing terms:

24 (i) Cash purchase for the amount that
25 is equal to—

1 (I) the value of the parcel deter-
 2 mined under paragraph (4); minus

3 (II) 10 percent of that value.

4 (ii) Installment purchase, with 10 per-
 5 cent of the value of the parcel determined
 6 under paragraph (4) to be paid on the date
 7 of purchase and the remainder to be paid
 8 over not more than 30 years at 3 percent
 9 annual interest.

10 (B) VALUE UNDER \$10,000.—If the value
 11 of the parcel is under \$10,000, the purchase
 12 shall be made on a cash basis in accordance
 13 with subparagraph (A)(i).

14 (3) OPTION EXERCISE PERIOD.—

15 (A) IN GENERAL.—A preferential lease-
 16 holder shall have until the date that is 5 years
 17 after the date of the conveyance under sub-
 18 section (c) to exercise the option under para-
 19 graph (1).

20 (B) CONTINUATION OF LEASES.—Until the
 21 date specified in subparagraph (A), a pref-
 22 erential leaseholder shall be entitled to continue
 23 to lease from the Commission the parcel leased
 24 by the preferential leaseholder under the same

terms and conditions as under the lease, as in effect as of the date of conveyance.

(4) VALUATION.—

(A) IN GENERAL.—The value of a preferential lease parcel shall be determined to be, at the election of the preferential leaseholder—

(i) the amount that is equal to—

(I) the number of acres of the preferential lease parcel; multiplied by

(II) the amount of the per-acre assessment of adjacent parcels made by the Director of Equalization of the county in which the preferential lease parcel is situated; or

(ii) the amount of a valuation of the preferential lease parcel for agricultural use made by an independent appraiser.

(B) COST OF APPRAISAL.—If a preferential leaseholder elects to use the method of valuation described in subparagraph (A)(ii), the cost of the valuation shall be paid by the preferential leaseholder.

(5) CONVEYANCE TO THE STATE.—

(A) IN GENERAL.—If a preferential leaseholder fails to purchase a parcel within the pe-

1 riod specified in paragraph (3)(A), the Commis-
2 sion shall convey the parcel to the State of
3 South Dakota Department of Game, Fish, and
4 Parks.

5 (B) WILDLIFE HABITAT MITIGATION.—
6 Land conveyed under subparagraph (A) shall be
7 used by the South Dakota Department of
8 Game, Fish, and Parks for the purpose of miti-
9 gating the wildlife habitat that was lost as a re-
10 sult of the development of the Pick-Sloan
11 project.

12 (6) USE OF PROCEEDS.—Of the proceeds of
13 sales of land under this subsection—

14 (A) not more than \$750,000 shall be used
15 to reimburse the Secretary for expenses in-
16 curred in implementing this Act;

17 (B) an amount not exceeding 10 percent of
18 the cost of each transaction conducted under
19 this Act shall be used to reimburse the Commis-
20 sion for expenses incurred implementing this
21 Act;

22 (C) \$3,095,000 shall be deposited in the
23 South Dakota Wildlife Habitat Mitigation
24 Trust Fund established by section 603 of the
25 Water Resources Development Act of 1999

1 (113 Stat. 389) for the purpose of paying prop-
 2 erty taxes on land transferred to the State;

3 (D) \$185,400 shall be transferred to Sully
 4 County, South Dakota;

5 (E) \$14,600 shall be transferred to
 6 Hughes County, South Dakota; and

7 (F) the remainder shall be used by the
 8 Commission to support public schools in the
 9 State.

10 (f) CONVEYANCE OF NONPREFERENTIAL LEASE
 11 PARCELS AND UNLEASED PARCELS.—

12 (1) CONVEYANCE BY SECRETARY TO STATE.—

13 (A) IN GENERAL.—Not later than 1 year
 14 after the date of enactment of this Act, the Sec-
 15 retary shall convey to the South Dakota De-
 16 partment of Game, Fish, and Parks the non-
 17 preferential lease parcels and unleased parcels
 18 of the Blunt Reservoir and Pierre Canal.

19 (B) WILDLIFE HABITAT MITIGATION.—

20 Land conveyed under subparagraph (A) shall be
 21 used by the South Dakota Department of
 22 Game, Fish, and Parks for the purpose of miti-
 23 gating the wildlife habitat that was lost as a re-
 24 sult of the development of the Pick-Sloan
 25 project.

1 (2) LAND EXCHANGES FOR NONPREFERENTIAL
2 LEASE PARCELS AND UNLEASED PARCELS.—

3 (A) IN GENERAL.—With the concurrence
4 of the South Dakota Department of Game,
5 Fish, and Parks, the South Dakota Commission
6 of Schools and Public Lands may allow a per-
7 son to exchange land that the person owns else-
8 where in the State for a nonpreferential lease
9 parcel or unleased parcel at Blunt Reservoir or
10 Pierre Canal, as the case may be.

11 (B) PRIORITY.—The right to exchange
12 nonpreferential lease parcels or unleased parcels
13 shall be granted in the following order of pri-
14 ority:

15 (i) Exchanges with current lessees for
16 nonpreferential lease parcels.

17 (ii) Exchanges with adjoining and ad-
18 jacent landowners for unleased parcels and
19 nonpreferential lease parcels not exchanged
20 by current lessees.

21 (C) EASEMENT FOR WATER CONVEYANCE
22 STRUCTURE.—As a condition of the exchange of
23 land of the Pierre Canal Feature under this
24 paragraph, the United States reserves a per-
25 petual easement to the land to allow for the

1 right to design, construct, operate, maintain,
2 repair, and replace a pipeline or other water
3 conveyance structure over, under, across, or
4 through the Pierre Canal Feature.

5 (g) RELEASE FROM LIABILITY.—

6 (1) IN GENERAL.—Effective on the date of con-
7 veyance of any parcel under this Act, the United
8 States shall not be held liable by any court for dam-
9 ages of any kind arising out of any act, omission, or
10 occurrence relating to the parcel, except for damages
11 for acts of negligence committed by the United
12 States or by an employee, agent, or contractor of the
13 United States, before the date of conveyance.

14 (2) NO ADDITIONAL LIABILITY.—Nothing in
15 this section adds to any liability that the United
16 States may have under chapter 171 of title 28,
17 United States Code (commonly known as the “Fed-
18 eral Tort Claims Act”).

19 (h) REQUIREMENTS CONCERNING CONVEYANCE OF
20 LEASE PARCELS.—

21 (1) INTERIM REQUIREMENTS.—During the pe-
22 riod beginning on the date of enactment of this Act
23 and ending on the date of conveyance of the parcel,
24 the Secretary shall continue to lease each pref-
25 erential lease parcel or nonpreferential lease parcel

1 to be conveyed under this section under the terms
2 and conditions applicable to the parcel on the date
3 of enactment of this Act.

4 (2) PROVISION OF PARCEL DESCRIPTIONS.—

5 Not later than 180 days after the date of enactment
6 of this Act, the Secretary shall provide the State a
7 full legal description of all preferential lease parcels
8 and nonpreferential lease parcels that may be con-
9 veyed under this section.

10 (i) FUNDING OF THE SOUTH DAKOTA TERRESTRIAL

11 WILDLIFE HABITAT RESTORATION TRUST FUND.—Sec-

12 tion 603(b) of the Water Resources Development Act of
13 1999 (113 Stat. 388) is amended by striking
14 “\$108,000,000” and inserting “\$111,095,000”.

15 (j) AUTHORIZATION OF APPROPRIATIONS.—There is

16 authorized to be appropriated to carry out this Act
17 \$750,000.

